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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,485	02/20/2004	Michael L. Howard	2291.2.9.2	2179
21552 7590 08/21/2007 MADSON & AUSTIN GATEWAY TOWER WEST SUITE 900 15 WEST SOUTH TEMPLE SALT LAKE CITY, UT 84101			EXAMINER NGUYEN, TANH Q	
			ART UNIT 2182	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/784,485

**Applicant(s)**

HOWARD ET AL.

**Examiner**

Tanh Q. Nguyen

**Art Unit**

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on June 11, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 7,146,254 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites the added limitation "wherein the adapter does not comprise a user interface that is local to the adapter" in line 5. Applicant cites page 10, line 7-page 11, line 3 and FIGs. 7-12 for support of the added limitation.

The cited section and the cited drawings however disclose a serial port 124 for communications with a user appliance [42, FIGs. 1 and 2; page 5, line 23-page 6, line 21] - hence a user interface that is local to the adapter for communications with the

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appliance. Note further that the disclosure considers the appliance being any device that is capable of receiving and sending electronic signals and the appliance including vending machine, telephone, printer, fax machine, copier, scanner, and the like - hence the appliance being also a user interface that is local to the adapter.

Since the added limitation is not supported by the specification, the examiner does not consider the added limitation in the rejections that follow.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cole et al. (US 6,074,434) in view of Lieu et al. (US 6,708,045), and alternatively over Cole et al. (US 6,074,434) in view of Lindgren (US 6,163,274).

7. As per claim 1, Cole teaches a communications adapter [client 14, FIG. 2] for facilitating electronic communications with an electronic device [i.e. a peripheral device of client 14] wherein the adapter is remotely reprogrammable by a provider computer [servers 12, 17 - FIG. 2; col. 12, lines 16-18] through a communications network [20, FIG. 1; col. 3, lines 16-19], the adapter comprising:

a communications port for electronically connecting the adapter to the electronic device [communications port inherent for electronically connecting a client to a peripheral device];

communications hardware [modem, col. 3, lines 19-24] for communicating automatically with the provider computer through the communications network [server 12 is dedicated to automating selection of updates [col. 3, lines 33-37] in response to the user selecting an icon to invoke update manager 32 [col. 3, lines 62-64]];

a processor [inherent in a client]; and

memory [32, 33, 34, 39 -FIG. 2; col. 3, lines 57-60] programmed to cause the adapter to send an identification of the adapter to the provider computer via the communications network [col. 4, lines 36-39] and to receive new data sent by the provider computer via the communications network to update a program of the adapter [col. 7, lines 8-15], wherein the new data comprises device instructions for the processor for communicating with the electronic device through the communications port [col. 5, lines 13-17].

Cole does not teach the communications network being a wireless network.

Lieu teaches an adapter [201, FIG. 2] comprising a communications hardware [modem 204, FIG. 2] for communicating wirelessly through a communications network [col. 5, lines 29-34] - hence the communications network being a wireless network, and wireless communications providing mobility to the user and obviating the need for in-building wiring and cabling [col. 1, lines 15-28]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cole's adapter in a wireless network environment because wireless communications provide mobility to the user and obviate the need for in-building wiring and cabling - as suggested by Lieu.

Alternatively, Lindgren teaches an adapter [100, FIG. 1] comprising communications hardware [wireless paging card 60, FIG. 3] for communicating with provider computer [10, FIG. 1] through a wireless network [120, FIG. 1]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cole's adapter in a wireless network environment because wireless communications provide mobility to the user and obviate the need for in-building wiring and cabling - as suggested by Lieu.

8. As per claims 2-4, Cole teaches the communications network being the Internet [col. 3, lines 16-19], hence a global communications network; Lieu teaches the wireless network being a pager network, and the wireless network being a cellular network [col. 1, lines 14-16]; Lindgren teaches the wireless network being a pager network, and the wireless network being a global communications network [col. 3, lines 46-48].

9. As per claims 5-6, Cole teaches the new data being device driver [col. 5, lines

13-17], hence the new data comprising a translator that includes and object representation [e.g. ABCDE.DRV] / functional representation [a device driver] of the electronic device. Furthermore, since it was known in the art at the time the invention was made for a client to include a translator with object representation or functional representation to provide protocol translation for proper communications with the peripheral devices, it would alternatively have been obvious to one of ordinary skill in the art at the time the invention was made for the new data to comprise a translator, in order to provide proper communications with the peripheral devices.

10. As per claim 7, Cole teaches the memory being further programmed to cause the adapter to identify the electronic device and to further send an identification of the electronic device to the provider computer via the communications network [client identifies device drivers and sending list of updates for device drivers - col. 6, line 50- col. 7, line 11; alternatively for a peripheral device that is not likely to change often, the information about such peripheral device is sent to the provider computer - col. 4, lines 31-39].

11. As per claims 8-12, the limitations of the claims generally correspond to the limitations recited in claims 1-2, 5-7 with the electronic device having an external communications port [peripheral device of a client having an external communications port], and with the new instructions being used for communicating with the electronic device without altering any program code on the electronic device [Cole teaches updating a driver on the client and does not teach altering any code on a peripheral device]. Claims 8-12 are therefore rejected on the same bases of claims 1-2, 5-7.

12. As per claims 13-14, the limitations of the claims generally correspond to the limitations recited in claims 1-2 with the electronic device having an external communications port [peripheral device of a client having an external communications port], and with the adapter establishing communications with the provider computer [col. 3, lines 62-64]. Claims 13-14 are therefore rejected on the same bases of claims 1-2.

13. As per claim 15, the limitations of the claim generally correspond to the limitations recited in claim 1 with the new instructions being used for communicating with the electronic device without altering any program code on the electronic device [Cole teaches updating a driver on the client and does not teach altering any code on a peripheral device]. Claim 15 is therefore rejected on the same basis as claim 1.

### ***Response to Arguments***

14. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the



shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

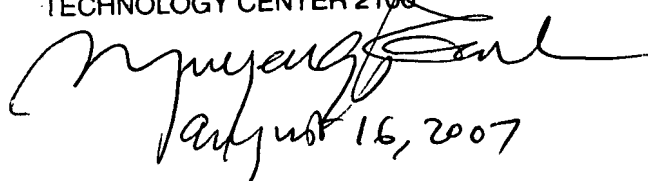
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanh Q. Nguyen whose telephone number is 571-272-4154. The examiner can normally be reached on M-F 9:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on 571-272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TQN  
August 16, 2007

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August 16, 2007